

Appl. No.: 10/751,702  
Amdt. Dated July 23, 2008  
Reply to Office Action of January 25, 2008

## REMARKS

### Status of the Claims

Claims 5-7 and 15 were rejected. Claims 5-7 and 15 remain pending.

### The Rejection Under 35 U.S.C. § 112, First Paragraph, Should be Withdrawn

The Examiner rejected claims 5-7 and 15 under 35 U.S.C. § 112, first paragraph, on the grounds that the specification does not provide an enabling disclosure for these claims. Claim 15 recites a vaccine comprising SEQ ID NO:4. The Examiner maintains the enablement rejection as it "is not clear from Applicants arguments that SEQ ID NO:4 would be protective against the R6x serotype or the Type 4 serotype." (Page 9, lines 5-7 of January 25, 2008 Office Action.) This rejection is respectfully traversed.

While Applicants continue to believe the arguments previously made of record enable the claims, a declaration under Rule 37 C.F.R. §1.132 by Dr. Elaine Tuomanen, an inventor on the instant application, is submitted herewith. As shown in the §1.132 declaration, immunization with SEQ ID NO:4 "significantly decreased the T4 pneumococci per mouse." See, point #5 of the accompany declaration. Moreover, immunization with SEQ ID NO:4 showed "significant protection against pneumococci serotypes 2 and 6B." See, point #6 of the accompany declaration. Thus, in view of data presented in the accompanying §1.132 declaration, claims 5, 6, 7 and 15 are enabled, and the Examiner is respectfully requested to withdraw the rejection.

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### CONCLUSION

It is submitted that this application is ready for allowance. In view of the above amendments and remarks, the Examiner is respectfully requested to withdraw the rejections and allow claims 5, 6, 7, and 15.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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